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JUL 14 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Blendermann
Application No. 10/075,221
Filed: February 13, 2002
For: PROPRIOCEPTIVE DEVICE THAT
CONTAINS NUTRIENTS FOR THE
TREATMENT OF STATUAL DISEASES

This decision concerns the June 22, 2004 petition under 37 CFR 1.137(b) to revive the above-referenced application, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in this application.

The petition is **GRANTED**.

On October 6, 2003, a non-final Office action was mailed, setting forth a 3-month shortened statutory reply period. Applicant filed an amendment on January 30, 2004 along with a \$55 payment (small entity) for a 1-month extension of time.

On February 26, 2004, a "Notice of Non-Compliant Amendment (37 CFR 1.121)" was mailed ("2/26/04 Notice"), giving Applicant 1 month for submitting a corrected amendment in compliance with 37 CFR 1.121.

As pointed out in the 2/26/04 Notice, extensions of time under 37 CFR 1.136(a) are available for submitting a corrected amendment **if** the non-compliant amendment is a reply to a **non-final** Office action, **which is the case here**. Therefore, the application did not become abandoned a month later. Rather, Applicant may submit the corrected amendment along with the requisite fee for an extension of time of up to 5 months. The corrected amendment accompanying the instant petition requires a 3-month extension of time (\$475; small entity). The instant petition encloses a \$665 check intended for paying the §1.137(b) petition fee. Thus, a credit balance of \$190 results and has been refunded.

In view of the above, the application should not have been held abandoned. The petition is thus granted and the April 19, 2004 Notice of Abandonment hereby vacated.

Finally, as requested, the new correspondence address has been entered and made of record.

The application file is being returned to Technology Center 3700 for further examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

A handwritten signature in black ink, appearing to read 'RC Tang', is positioned above the printed name.

RC Tang
Petitions Attorney
Office of Petitions